

**IN THE CIRCUIT COURT OF CITY OF ST. LOUIS  
STATE OF MISSOURI**

**KENDRA TROTTER,**

And

**ANDRAY JONES,**

Plaintiffs,  
vs.

Cause No.

Division No.

**CHRISTOPHER BERTHOLOMEY**

Serve:

**JURY TRIAL DEMANDED**

Hold for service

and

**BURLINGTON NORTHERN  
SANTA FE RAILWAY COMPANY,  
Dba BURLINGTON NORTHERN AND  
SANTA FE RAILWAY COMPANY,**

Serve:

Hold for service.

Defendant.

**PETITION**

COMES NOW, Plaintiffs Kendra Trotter and Andray Jones, by and through their attorney Lorenzo Hester, The Hester Group LLC. and for their cause of action against Defendants Christopher Bertholomey and Burlington Northern Santa Fe Railway Company, states as follows:

**EXHIBIT**

**A**

### **ALLEGATIONS COMMON TO ALL COUNTS**

1. Plaintiff Kendra Trotter is a resident of St. Louis County, State of Missouri.
2. Plaintiff Andray Jones is a resident of the state of Missouri.
3. Defendant Christopher Bertholomey is a resident of the state of Missouri.
4. Defendant Burlington Northern Santa Fe Railway Company is a foreign corporation authorized to conduct business in the state of Missouri with capacity to sue and be sued and operates a railroad in the state of Missouri.
5. At all times pertinent to this lawsuit, Burlington Northern Santa Fe Railway Company, dba Burlington Northern and Santa Fe Railway Company, hereinafter referred to as "BNSF," acted by and through its agents, servants, and employees, who acted at all pertinent times within the scope and court of said servancy, agency, and employment with authority to so act, specifically Defendant Christopher Bertholomey hereinafter referred to as "Conductor Bertholomey" was an employee conductor of BNSF train including the time of the alleged occurrence hereinafter in plaintiffs' petition.
6. The injuries sustained by Plaintiff occurred in St. Louis City, Missouri, therefore venue is proper pursuant to §§ 508.010.
7. On or about August 9, 2015, Plaintiff Trotter was driving with passenger Plaintiff Jones on northbound on Hall Street near the intersection of Hall Street and Thatcher Street when Plaintiffs attempted to cross the Defendant BNSF railroad tracks, at a railroad crossing, when her vehicle was struck by a westbound train, operated by Defendant Conductor Bertholomey and owned by Defendant BNSF, and its agents, servants, and employees.

**COUNT I – NEGLIGENCE AGAINST CONDUCTOR BERTHOLOMEY**

8. Plaintiff alleges and incorporates herein each and every allegation contained in paragraphs 1 through 7 above.
9. Defendant Conductor Bertholomey was negligent and careless in one or more of the following ways:
  - a. He failed to apply the train breaks to avoid striking Plaintiffs vehicle;
  - b. He operated a train in a reckless and hazardous manner;
  - c. He failed to exercise care to decelerate or slacken in the speed of the train in response to individual hazard/dangerous conditions which were known or should have been known to have existed at the time of the collision with the subject vehicle at the crossing, including failure to slow, decelerate or brake in sufficient time to avoid the collision after the collision became imminent;
  - d. He failed to keep a careful lookout;
  - e. He failed to ring a bell, sound a horn or whistle or otherwise sound a warning at a distance which is required by RSMo section 389.990, constituting negligence per se
  - f. He failed to conductor a train in a reasonable manner as other train conductors would conduct a train;
  - g. He failed to make sure his view was not obstructed by vegetation and debris to avoid striking Plaintiff's vehicle.
10. As a direct result or direct contributing result of Defendant Christopher Bertholomey's, negligence, breach of the standard of care, Plaintiffs Kendra Trotter and Andray Jones sustained damage to their property and persons, to wit: 1) they both suffer irreparable harm to their body as a whole and will continue to suffer pain in the future; 2)

Plaintiffs Kendra Trotter and Andray Jones have suffered permanent physical injuries; 3) Plaintiffs have suffered in their ability to enjoy the ordinary pursuits of life; and 4) Plaintiffs have required to undergo medical procedures and have sustained other damages.

11. All of the injuries and damages sustained by Plaintiffs were the direct and proximate result of the negligent actions of Defendant Christopher Bertholomey without the direct contribution of any act or omission on the part of Plaintiffs.

### **COUNT II –RESPONDEAT SUPERIOR DEFENDANT BNSF**

12. Plaintiff alleges and incorporates herein each and every allegation contained in paragraphs 1 through 11 above.

13. At the time of Plaintiffs Kendra Trotter and Andray Jones injuries, Defendant Christopher Bertholomey was acting within the scope of employment with BNSF.

14. BNSF is responsible for the actions caused by its employee while acting within the scope of its employment with BNSF.

### **COUNT III –NEGLIGENCE AGAINST DEFENDANT BNSF**

15. Plaintiff alleges and incorporates herein each and every allegation contained in paragraphs 1 through 14 above.

16. Defendant BNSF breached its duty in the following ways:

- a. BNSF by and through its agents, servants, and employees failed to maintain this crossing right-of-way and property in a safe and reasonable condition as other locomotive train owners;

- b. BNSF failed to maintain the crossing adequately and properly marked to provide the reasonable motorist with sufficient information for reasonably safe passage over the crossing;
- c. BNSF failed to maintain the crossing adequately to reduce the threat to public safety by properly and adequately maintaining clear of brush, trees, debris, and other visual obstructions, which is required by RSMo 389.665 constituting negligence per se;
- d. BNSF failed to maintain the crossing with adequate warning devices to warn the public of approaching locomotive trains;
- e. BNSF failed to adequately warn of the approach of the oncoming locomotive train;
- f. BNSF failed to implement and/or enforce, and its employee failed to follow proper safety procedures when operating a locomotive train;
- g. BNSF failed to train its employees or require training of its employees in proper crossing safety when operating a locomotive train.

17. As a direct and proximate result of BNSF negligence, breach of the standard of care, Plaintiffs Kendra Trotter and Andray Jones sustained damage to their property and persons, to wit: 1) they both suffer irreparable harm to their body as a whole and will continue to suffer pain in the future; 2) Plaintiffs Kendra Trotter and Andray Jones have suffered permanent physical injuries; 3) Plaintiffs have suffered in their ability to enjoy the ordinary pursuits of life; and 4) Plaintiffs have required to undergo medical procedures and have sustained other damages.

WHEREFORE, for having shown good cause, Plaintiffs Kendra Trotter and Andray Jones prays for (1) Judgment against Defendants Christopher Bertholomey and Burlington Northern and Santa Fe in excess of the jurisdictional minimum and (2) any further relief as this Court deems reasonable and proper under the premises.

**THE HESTER GROUP LLC**

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